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Superfund work looks more like superfight

Federal agency warns Willamette group that 'defiance' won't work

BY BEN JACKLET Issue date: 12/13/2002
The Tribune

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The Environmental Protection Agency has chastised the businesses and agencies on the hook for polluting Portland harbor for attempting to limit their liability for cleaning up the Willamette River.

The EPA slammed the Lower Willamette Group in an Oct. 2 letter for taking a "counterproductive" and "inappropriate" scientific approach to determining the background levels of pollution in the river upstream from Portland.

Background pollution levels are significant because they ascertain how clean will be clean enough for the Willamette in Portland.

The EPA criticized the group for taking fish samples at two contaminated areas upstream in the river but refusing to take samples at a third, far cleaner, location. The result of such a maneuver would be to shift the blame upstream and away from the riverfront businesses in the harbor.

The letter, signed by three EPA officials, warned the group: "The data you have apparently decided to collect (not merely without authorization, but in disregard and defiance of our efforts to work cooperatively and collaboratively to date) WILL NOT be used as reference data, and may not be used for any purpose."

The letter's sharp wording contradicts numerous public statements from the Lower Willamette Group that Portland's approach to Superfund cleanup has been far less contentious than is the norm.

Business interests at odds

Ever since the harbor was first named as one of the nation's most polluted sites in December 2000, members of the Lower Willamette Group have stated that they are committed to working with the EPA rather than against it.

The harbor area is plagued by elevated levels of arsenic, petroleum waste, DDT, PCBs and other toxins.

The Lower Willamette Group consists of representatives from the Port of Portland, the city and a dozen riverfront businesses, including NW Natural, Chevron Texaco Corp. and Union Pacific Railroad Corp. The group is paying for a multimillion-dollar investigation of the river's pollution, with help from eight consulting firms and oversight from the EPA.

One of the group's co-leaders, Trey Harbert, left his position Nov. 15 when he abruptly resigned from the Port of Portland without a public explanation.

Barbara Smith, spokeswoman for the Lower Willamette Group, says the group continues to push for cleaning the river cooperatively and quickly.

"We were certainly disappointed with the tone of the EPA's letter, but it doesn't mean that there are any problems in our extended relationship," she said. "You have disagreements, and you work them out. It's not unusual."

The disagreement over how best to test for pollution upstream from Portland has not been resolved, however. The EPA still has not approved the Lower Willamette Group's work plan for investigating sources of pollution and possible methods of cleanup.

A first draft of the plan went to the EPA last May, and officials say they hope it will be approved by May 2003.

A big deal, or not?

The questions at the heart of the dispute are:

- How much pollution is already in the river before it reaches Portland?
- And how clean is clean enough for Portland harbor?

To find scientifically valid answers, the EPA requested fish tissue samples from three upstream sources, including one fairly pristine location 150 miles upstream from the city.

The Lower Willamette Group refused to take samples from the cleanest source. Instead, it collected samples from other, more polluted locations.

One sampling point was the Newberg Pool, downstream from Salem, where previous studies already have found deformed fish. The other was upstream from Lake Oswego and downstream from the paper mills near Willamette Falls.

The group then informed the EPA that it intended to use the upstream data it collected as a reference point for background contamination. Reference points play a crucial role in establishing how much cleanup work businesses must perform and also how much money they may have to pay to plaintiffs — such as Indian tribes — that may sue for lost natural resources as part of the Superfund process.

This unauthorized decision by the Lower Willamette Group to determine its own base-line reference levels brought the sharp rebuke from the EPA. Project managers Wallace Reid, Chip Humphrey and Tara Karamas expressed fears that the upstream data would distract the group's focus and lead to "pointless contention" that would slow the way to cleanup.

"It appears our working relationships may be dramatically altered by these events," the letter concluded, "and (we) urge you to reconsider the course you appear to have chosen."

In a written statement to the Tribune on Wednesday, Reid downplayed the tension in Portland harbor:

"The EPA project team and the Lower Willamette Group have reviewed the circumstances associated with this exchange of letters ... and are currently working aggressively and cooperatively on the project."

But Portland's river advocates familiar with the rift expressed concerns that the businesses and agencies responsible for polluting the harbor are trying to shift the blame upstream to save money at the river's expense.

Peter Lavigne, executive director of the Portland-based Rivers Foundation of the Americas and a longtime clean-water advocate, said: "It's a serious problem, if these businesses are doing this to throw doubt on the source of the problem, instead of focusing on cleaning up the stuff that they know they discharged."

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